

FILED BY *[Signature]* D.C.

IN THE UNITED STATES DISTRICT COURT
05 JUL 19 PM 3:44 FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY *[Signature]* D.C.
05 JUL -7 AM 11:38

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

United States of America,)
)
Plaintiff,)
)

vs.)
)
)

CHRIS NEWTON and)
CHARLES LOVE,)
MOTION GRANTED
Defendants.)
)
)

Case No. 2:05-cr-20205-1-MI

JON PHIPPS McCALLA
U.S. DISTRICT JUDGE

July 19, 2005
DATE

**DEFENDANT'S MOTION TO WAIVE APPEARANCE AT REPORT DATE
AND TO PARTICIPATE VIA TELEPHONE CONFERENCE**

Comes now the Defendant, Chris Newton, by and through his counsel, and pursuant to the Notice of Setting [Court File No. 21], to hereby request that his appearance in Court at the August 23, 2005, report date be waived and that his attorneys be permitted to participate via telephone conference. In support of this motion, the Defendant would show as follows:

1. The Defendant lives and works in Cleveland, Tennessee, which is a distance of more than five (5) hours from the Court;
2. The proceedings will not be materially affected by the participation of the Defendant and his counsel by telephone conference;
3. The Defendant understands his right to be present and participate in these proceedings in open court, but, in accordance with the Waiver of Personal Appearance filed contemporaneously with this motion and incorporated herein by reference, desires to waive his right to personally appear;
4. Counsel for the Defendant has consulted with the Government about this

SHUMACKER
WITT GAITHER &
WHITAKER, P.C.

motion and represents to the Court that the Government does not oppose this motion;

5. That this request does not affect any deadline set forth under the Speedy Trial Act, 18 U.S.C. § 3161, *et seq.*, or under any order of this Court.

Respectfully submitted,

**SHUMACKER WITT GAITHER &
WHITAKER, P.C.**

By:

Hugh J. Moore, Jr.
Hugh J. Moore, Jr., Tenn. BPR No. 000883
1100 SunTrust Bank Building
736 Market Street
Chattanooga, Tennessee 37402-4856
(423) 425-7000
Attorneys for J. Christopher Newton

CERTIFICATE OF SERVICE

The undersigned hereby certifies that a true and exact copy of this pleading has been served upon counsel for all parties at interest in this case by placing a true and exact copy of this pleading in the United States Mail, with sufficient postage, and addressed to such counsel at his or her office as indicated below:

Timothy R. DiScenza
Assistant U.S. Attorney
167 N. Main Street, Suite 800
Clifford Davis Federal Building
Memphis, Tennessee 38103

Bryan H. Hoss
Davis & Hoss
508 East 5th Street
Chattanooga, Tennessee 37403

This the 6 day of July, 2005.

**SHUMACKER WITT GAITHER &
WHITAKER, P.C.**

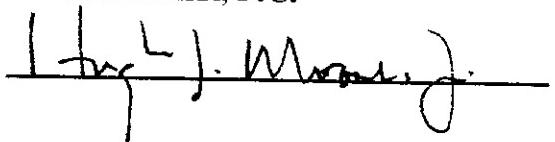
By: Hugh J. Moore, Jr.

CERTIFICATE OF COUNSEL

I hereby certify that on June 27, 2005, co-counsel Thomas Greenholtz conferred with Assistant United States Attorney, Timothy DiScenza, by telephone regarding this motion. I represent to the Court that the U.S. Attorney's Office does not oppose this motion.

**SHUMACKER WITT GAITHER &
WHITAKER, P.C.**

By:

A handwritten signature in black ink, appearing to read "Greg L. Moore, Jr." The signature is cursive and somewhat stylized.



Notice of Distribution

This notice confirms a copy of the document docketed as number 36 in case 2:05-CR-20205 was distributed by fax, mail, or direct printing on July 20, 2005 to the parties listed.

Hugh J. Moore
SCHUMAKER WITT GAITHER & WHITAKER, P.C.
736 Market St.
1100 Suntrust Bank Bldg.
Chattanooga, TN 37402-260

Timothy R. DiScenza
U.S. ATTORNEY'S OFFICE
167 N. Main St.
Ste. 800
Memphis, TN 38103

Honorable Jon McCalla
US DISTRICT COURT